

FIRST REGULAR SESSION

SENATE BILL NO. 92

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NODLER.

Pre-filed December 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0311S.011

AN ACT

To amend chapter 319, RSMo, by adding thereto one new section relating to damage to underground facilities.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 319, RSMo, is amended by adding thereto one new
2 section, to be known as section 319.042, to read as follows:

319.042. 1. Notwithstanding any other provision of law to the
2 contrary, any claim for damage to an underground facility allegedly
3 caused by excavation that is brought by an underground facility owner
4 against an excavator shall be made in writing and delivered to the
5 excavator within ninety days of completion of repairs to the facility
6 and shall in no case be made more than one hundred eighty days after
7 the date the person responsible for the excavation notified the
8 notification center of damage under section 319.045. Any claim not
9 made within the time periods prescribed by this section, or within such
10 other time period as may be agreed upon in writing by the owner and
11 excavator after the occurrence of the damage, shall be barred. If no
12 notice of damage was made by the excavator under section 319.045, or
13 the excavator concealed, or attempted to conceal, damage to the
14 facility, or made unauthorized repairs to the damaged facility in
15 violation of section 319.045, the limitation of this section shall not
16 apply. If repairs cannot be made within ninety days after the notice of
17 damage by the excavator due to an order or notice of investigation by
18 the Missouri public service commission or the federal Office of Pipeline
19 Safety or by order of a state or federal court, and if the owner has
20 delivered to the excavator a copy of the order or notice of investigation
21 within such ninety-day period, then the period within which a claim

22 may be delivered to the excavator shall end ninety days after
23 completion of repairs.

24 2. If an underground facility owner elects to make temporary
25 repairs to facilities allegedly damaged by excavation, the provisions of
26 subsection 1 of this section shall apply separately to a claim for the cost
27 of the temporary repairs and to a claim for the cost of subsequent
28 permanent repairs. The claim for permanent repairs in such case shall
29 not be barred after the one hundred eighty-day period specified in
30 subsection 1 of the this section if the claim for temporary repairs was
31 made in compliance with subsection 1 of this section, and the
32 underground facility owner proceeded with reasonable diligence to
33 make permanent repairs, and the claim for permanent repairs was
34 made in writing and delivered to the excavator within ninety days after
35 completion of the permanent repairs.

36 3. Any claim delivered to an excavator under subsection 1 or
37 subsection 2 of this section shall be paid either by the excavator within
38 ninety days after receipt of the claim, or if the claim is disputed by the
39 excavator, in whole or in part, a written statement stating the reason
40 or reasons for disputing the claim shall be delivered by the excavator
41 to the underground facility owner making the claim within ninety days
42 after receipt of the claim. If such written statement disputing the claim
43 has not been delivered to the underground facility owner within ninety
44 days after receipt of the claim, in any subsequent proceeding for
45 collection of the claim, there shall be a rebuttable presumption that the
46 amount claimed is due and owing from the excavator.

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